

REMARKS

Amendments to the Claims

Applicants have amended claims 3, 6 and 13 and canceled claims 1, 2, 19, 21-23, and 27-30. Upon entry of these amendments claims 3-14 remain pending.

Applicants have amended claim 3 to place it in condition for allowance.

Applicants have amended claim 3 to recite which constituents are permitted. Support for this amendment can be found in the specification. *See e.g., [0055]-[0093].* Applicants have also amended claim 3 to delete reference to “heteroaryl” and to recite “heterocyclic group” instead of “heterocycle” and to define “heterocyclic group”. Support for this amendment can be found in the specification. *See e.g., [0091].*

Applicants have amended claim 6 to recite “heterocyclic group” such that it is consistent with amended claim 3.

Applicants have amended claim 13 to delete reference to “heteroaryl”.

These amendments are made in accordance with 37 C.F.R. § 116. They cancel claims. They comply with requirements of form. They also present claims in condition for allowance or at least in better form for appeal. Applicants request their entry into this application and their allowance.

Applicants have made these amendments and claim cancellations without prejudice. They reserve the right to seek patents on the canceled subject matter in this or other applications claiming priority or benefit from this application.

The Rejections

1. 35 U.S.C. §112, second paragraph: Indefiniteness

Claims 3-14 and 21-23 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite. Specifically, the Examiner argues that the nature of the substituents, the nature of heteroaryl and the term heterocyclic are unclear and indefinite. In view of the various claim amendments and arguments, applicants traverse these indefiniteness rejections.

(i) Substituted

While the specification lists specific examples of substituents, the Examiner contends that the recitation of the phrase “and the like” in the specification renders the claims indefinite. The Examiner states that recitation of the specific substituents in the claim would overcome this rejection.

Applicants have amended claim 3 (and thus dependent claims 4-14, claims 21-23 being canceled) to confirm and clarify its intended scope. Claim 3 (and thus dependent claims 4-14, claims 21-23 being canceled) now recites specific substituents. This overcomes the rejection.

(ii) “Heteroaryl”/”Heterocyclic”

While the Examiner acknowledges that the applicants specifically refer to the furyl and thienyl heterocyclic moieties, he questions what other heterocyclic rings are intended, as well as their size, saturation, and number of rings.

To clarify the claims and confirm their intended scope, applicants have amended claim 3 (and thus dependent claims 4-14, claims 21-23 being canceled) to recite heterocyclic groups that contain at least one heteroatom selected from the group consisting of oxygen, sulfur, or nitrogen; that are monocyclic, bicyclic, or tricyclic; that are aromatic or non-aromatic, and that have 5-7 members. These amendments overcome the Examiner's questions.

Application No. 10/511,840
Response Dated April 23, 2009
Responds to December 22, 2008 Office Action

Applicants have also amended claims 3 and 6 to replace the term "heterocycle" with "heterocyclic group" so as to be internally consistent

Finally, applicants have amended claims 3 and 13 to remove "heteroaryl." It overlapped with "heterocyclic group." Applicants request reconsideration and withdrawal of these indefiniteness rejections.

2. 35 U.S.C. §112, first paragraph: Enablement

Claims 21-23 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enablement. Applicants have canceled claims 21-23 without prejudice. This moots the rejection.

Application No. 10/511,840
Response Dated April 23, 2009
Responds to December 22, 2008 Office Action

CONCLUSION

Based on the above claim amendments and arguments, applicants request favorable consideration and early allowance of amended claims 3-14.

Respectfully submitted,

/BRIAN M. GUMMOW/

James F. Haley, Jr. (Reg. No. 27,794)
Attorney for Applicants
Brian M. Gummow (Reg. No. 63,933)
Agent for Applicants
c/o ROPES & GRAY LLP
Customer No. 1473
1211 Avenue of the Americas
New York, New York 10036
Phone: 212.596.9000
Fax: 212.596.9090